

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 2 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. 01-36
Table of Allotments,) RM-10047
FM Broadcast Stations.)
(Jamestown, Alfred and)
Canaseraga, New York; and)
Du Bois, Pennsylvania)

TO: John A. Karousos, Chief
Allocations Branch
Policy and Rules Division

COMMENTS IN OPPOSITION AND COUNTERPROPOSAL
OF PEMBROOK PINES ELMIRA, LTD.

1. Pembroke Pines Elmira, Ltd. ("Pembroke Pines"), licensee of Station WZKZ(FM), Alfred, New York, hereby submits these Comments in Opposition and Counterproposal in response to the Notice of Proposed Rule Making and Order to Show Cause ("NPRM"), DA 01-336, released February 9, 2001, in the above-captioned proceeding.

2. In the NPRM, the Commission has proposed the adoption of a proposal advanced by Vox Allegany, LLC ("Vox"), which would:

- substitute Channel 246A for Channel 270A in Alfred, and require the modification of the license of Station WZKZ(FM);
- substitute Channel 270A for vacant (and unapplied for) Channel 246A at Canaseraga, New York;
- specify new reference coordinates for Channel 271B at Du Bois, Pennsylvania, which is presently utilized by Vox's Station WMOU(FM) (formerly WOWQ(FM)); and
- upgrade Channel 270A to Channel 270B1 in Jamestown, New York, which is presently utilized by Vox's Station WHUG(FM).

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3. Pembroke Pines opposes this proposal because Pembroke Pines does not wish to change its Alfred channel when no such change is necessary. Pembroke Pines is concerned about the adverse effect that a change in channel would likely have on its ability to maintain and serve the established audience of Station WZKZ(FM).

4. As set forth in the accompanying Engineering Report, Channel 270B1 can be allotted to Jamestown while Channel 270A remains in Alfred and Channel 271B remains in Du Bois. Pembroke Pines's counterproposal merely involves the specification of alternate reference points for each of the three channels in their respective communities. That is, Pembroke Pines proposes that:

- Channel 270A at Jamestown be upgraded to Channel 270B1, with reference coordinates of 42° 11' 05" N, 79° 27' 00" W;
- the reference coordinates of Channel 270A at Alfred be revised to 42° 11' 25" N, 77° 43' 05" W; and
- the reference coordinates of Channel 270B at Du Bois be revised to 41° 04' 29" N, 78° 31' 58" W.

No change in the Canaseraga allotment would be required as a result of this counterproposal.

5. The advantages of this counterproposal are obvious. Vox would be able to upgrade its Jamestown station on its preferred channel. Vox would also be able to maintain its Du Bois station on its existing channel, with that channel subject to a set of reference coordinates to which Vox has already consented. And Pembroke Pines would be permitted to

maintain its Alfred station on its existing channel, with that channel also subject to a new set of reference coordinates. ^{1/} No substantial dislocation would occur to any existing station, and no change at all would occur to the vacant allotment at Canaseraga, which is on the list of channels available for auction in Auction No. 37 currently scheduled to commence in December, 2001. ^{2/}

6. In view of these advantages, Pembroke Pines urges that the above-described counterproposal be adopted in lieu of Vox's original proposal, as set out in the NPRM. In the event that Pembroke Pines's counterproposal is rejected and Vox's proposal adopted -- and Pembroke Pines is therefore required to change the channel of Station WZKZ(FM) -- Pembroke Pines will insist on

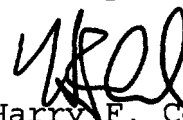
^{1/} Pembroke Pines understands that the designation of modified reference coordinates would not necessarily entail any modification of the transmitter sites of either Station WZKZ(FM) or WMOU(FM), to the extent that operation of those stations from their currently-authorized sites can be demonstrated to be consistent with the Commission's rules. In this regard Pembroke Pines notes that, while Vox proposed a revised set of reference coordinates for Station WMOU(FM), and while the NPRM proposes to adopt those revised coordinates, the NPRM contains no indication at all that Station WMOU(FM) would be required to relocate to those revised coordinates, or that Vox has consented to any such relocation.

^{2/} Pembroke Pines recognizes that the contour protection provisions of Section 73.215 are not relevant to channel allotment proceedings. Nevertheless, Pembroke Pines is constrained to observe that the Jamestown and Alfred stations could easily operate as a Class B1 and Class A station, respectively, both on Channel 270 from their currently authorized sites, subject to modest contour protection adjustments. Thus, Vox could, through the invocation of Section 73.215, achieve its desired result -- the upgrade of Station WHUG(FM) -- with no substantial loss of service area and without disrupting Pembroke Pines's operation of Station WZKZ(FM).

explicit assurance from Vox that Pembroke Pines will be fully reimbursed for all costs associated with that change before any such costs are incurred by Pembroke Pines.

WHEREFORE, for the reasons stated, Pembroke Pines Elmira, Ltd. proposes that: Channel 270B1 be allotted to Jamestown, New York, subject to the reference coordinates indicated above; the reference coordinates for Channel 270A in Alfred, New York, and 271B in Du Bois, Pennsylvania, be revised also as indicated above.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

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Counsel for Pembroke Pines
Elmira, Ltd.

April 2, 2001

ENGINEERING STATEMENT

This engineering statement, together with attached figures, has been prepared on behalf of Pembroke Pines Elmira, LTD, licensee of radio station WZKZ, Alfred, NY, in support of a counterproposal to a petition to amend the FM Table of Allotments to upgrade WHUG, Jamestown, NY to a Class B1 facility. This counterproposal will show that it is still possible to upgrade WHUG on its licensed channel to Class B1 without substituting Channel 246A for Channel 270A at WZKZ, Alfred, NY.

Jamestown, NY is within Zone I, as per §73.205(a) of the Commission's Rules and hence a spacing study was done using Class B1 criteria. The spacing study was conducted from an alternate site 20.2 kilometers northwest of Jamestown, NY. The NAD-27 co-ordinates of this alternate site are:

N 42° 11' 05" W 79° 27' 00"

Figure 1A tabulates the spacing of the WHUG proposal to all pertinent facilities and proposals. This spacing study employs the alternate reference NAD-27 coordinates for radio station WOWQ, DuBois, PA (commonly owned by WHUG's licensee) of:

N 41° 04' 29" W 78° 31' 58"

The spacing study also employs a suggested reference point for radio station WZKZ, Alfred, NY with NAD-27 co-ordinates of:

N 42° 11' 25" W 77° 43' 05"

Based on the above co-ordinates, the spacing study in Figure 1A indicates short spacing to CFNY-FM, Brampton, ON and the licensed WHUG Class A facility but clear spacing to WOWQ and WZKZ. The petitioner for the WHUG Class B1 upgrade proposes a directional pattern to avoid mutual contour overlap with CFNY-FM. It will be noted that the alternate site specified for WHUG B1 is further from CFNY-FM than the site in the original petition for rulemaking. WHUG will also delete its Class A facility.

Figure 1B is an allocation map showing the 70 dBu city-grade contour of WHUG assuming 25 kW at 100 meters AAT from the alternate site and it is noted that all of the city of Jamestown, NY will be served with 70 dBu or greater.

Alfred, NY is also within Zone I but will remain a full-facility Class A radio station. The spacing study in Figure 2A, Pages 1 and 2, was conducted from a reference point 9.0 kilometers southeast of Alfred, NY. The NAD-27 co-ordinates of this reference point are:

N 42° 11' 25" W 77° 43' 05"

Figure 2A, Pages 1 and 2, tabulates the spacing of WZKZ from this reference point and also employs the alternate site for WHUG B1 and alternate reference co-ordinates the WHUG petitioner specified for WOWQ. The spacing study shows short spacing to the licensed WZKZ site but is clear to all other facilities and proposals, especially to the WHUG Class B1 proposal.

Figure 2B is an allocation map showing the 70 dBu city-grade contour of WZKZ assuming 6 kW at 100 meters AAT from the specified reference point and it is noted that all of the community of Alfred, NY will continue to be served with greater than 70 dBu from WZKZ.

Hence it is clear that based on the foregoing engineering data, substituting Channel 246A for Channel 270A at Alfred, NY is totally unnecessary. The site reference co-ordinates specified for WHUG assuming Class B1 operation, as well as alternate reference co-ordinates for WOWQ, DuBois, PA and WZKZ, Alfred, NY are reasonable and not only meet domestic spacing requirements but will continue to provide city-grade service to each community of license.

The Table of Allotments should be amended as follows:

	<u>Present</u>	<u>Proposed</u>
Alfred, NY	270A	270A <u>1/</u>
Jamestown, NY	201A, 209B, 215B1 227B, 270A	201A, 209B, 215B1, 227B, 270B1 <u>2/</u>

1/ Site restriction of 9.0 km southeast of Alfred, NY

2/ Site restriction 20.2 km northwest of Jamestown, NY.

WHUG 270B1 ALLOC

Figure 1A

Search of channel 270 (101.9 MHz Class B1) at 42-11-05.0 N, 79-27-00.0 W.

CALL	CITY	ST	CHN	CL	DIST	S	BRNG	CLEARANCE
CFNYFM	Brampton	ON	271	C1	162.02	181	1.8	-18.98
CFNYFM	Brampton	ON	271	C1	162.63	181	2.1	-18.37
CJRT	Toronto	ON	216	C1	162.02	40	1.8	122.02
CJRT	Toronto	ON	216	C1	162.02	40	1.8	122.02
CKDKFM	London	ON	272	B	178.36	84	299.4	94.36
CKDKFM	Woodstock	ON	272	B	148.53	84	314.0	64.53
CKDKFM	Woodstock	ON	272	B	148.53	84	314.0	64.53
CKDKFM	Woodstock	ON	272	B	148.53	84	314.0	64.53
CKDKFM	Woodstock	ON	272	B	148.53	84	314.0	64.53
CKOTFM	Tillsonburg	ON	267	B	146.26	71	309.5	75.26
WAPS	Akron	OH	217	A	213.76	12	234.6	201.76
WAPS	Akron	OH	217	A	216.96	12	235.6	204.96
WBJA	Albion	NY	271	A	160.32	96	38.5	64.32
WBNY	Buffalo	NY	217	A	95.28	12	29.0	83.28
WBTJ	Hubbard	OH	270	A	149.73	143	216.1	6.73
WDKC	Covington	PA	268	A	201.90	48	107.4	153.90
WDOK	Cleveland	OH	271	B	207.32	145	245.2	62.32
WDOK	Cleveland	OH	271	B	207.24	145	245.3	62.24
WDVE	Pittsburgh	PA	273	B	193.73	71	194.4	122.73
WFLK	Geneva	NY	269	A	214.20	96	68.6	118.20
WHUG	Jamestown	NY	270	A	19.89	143	107.3	-123.11
WISY	Canandaigua	NY	272	A	190.34	48	65.9	142.34
WJET	Erie	PA	272	A	53.64	48	252.7	5.64
WJET	Erie	PA	272	A	53.64	48	252.7	5.64
WLOF	Attica	NY	269	A	116.57	96	50.4	20.57
WLOF	Attica	NY	269	A	116.57	96	50.4	20.57
WMJQ	Buffalo	NY	273	B	92.90	71	30.4	21.90
WMJQ	Buffalo	NY	273	B	85.90	71	51.8	14.90
WMXO	Olean	NY	268	A	88.05	48	95.4	40.05
WMXO	Olean	NY	268	A	87.96	48	95.3	39.96
WOLN	Olean	NY	217	A	84.65	12	101.0	72.65
WORDFM	Pittsburgh	PA	268	B	194.28	71	193.7	123.28
WOWQ	Du Bois	PA	271	B	145.05	145	148.0	0.05
WQLNFM	Erie	PA	217	B	53.34	17	252.9	36.34
WRMMFM	Rochester	NY	267	B	182.23	71	52.4	111.23
WRMMFM	Rochester	NY	267	B	182.23	71	52.4	111.23
WRMU	Alliance	OH	216	A	198.65	12	224.7	186.65
WRUWFM	Cleveland	OH	216	A	191.97	12	248.0	179.97
WRUWFM	Cleveland	OH	216	B1	191.97	14	248.0	177.97
WSAJFM	Grove City	PA	216	A	126.34	12	206.3	114.34
WSAJFM	Grove City	PA	216	A	125.76	12	204.8	113.76
WSQE	Corning	NY	216	B1	213.34	14	91.5	199.34
WSRA	Central City	PA	269	A	235.51	96	167.7	139.51
WVCC	Linesville	PA	269	A	100.34	96	236.3	4.34
WYEPFM	Pittsburgh	PA	217	B1	200.90	14	191.6	186.90
WZKZ	Alfred	NY	270	A	143.08	143	89.2	0.08
WZOOFM	Edgewood	OH	273	A	120.53	48	251.3	72.53

WZKZ CH270A ALLOC

Figure 2A Page 1

search of channel 270 (101.9 MHz Class A) at 42-11-25.0 N, 77-43-05.0 W.

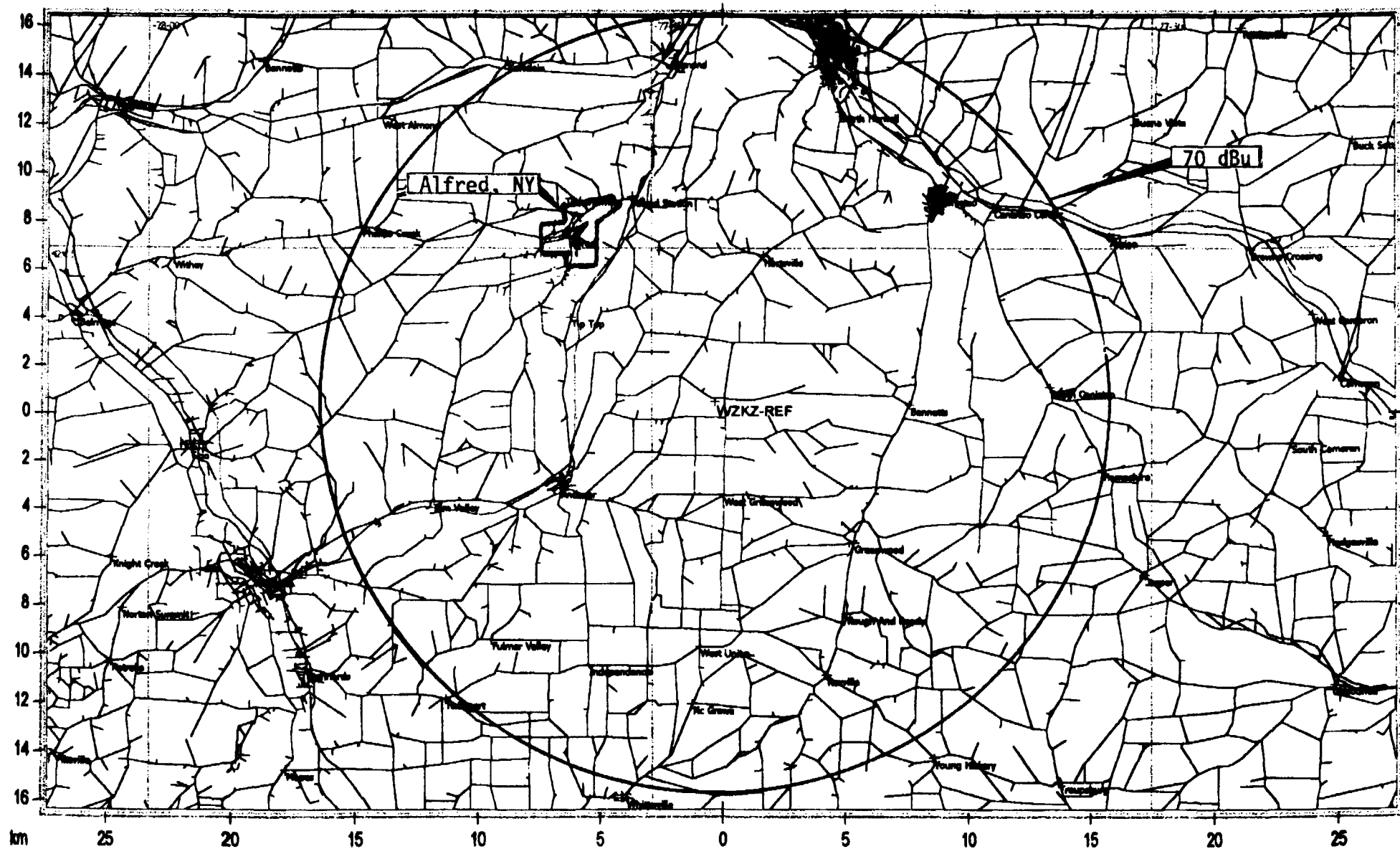
CALL	CITY	ST	CHN	CL	DIST	S	BRNG	CLEARANCE
CFNYFM	Brampton	ON	271	C1	211.21	164	320.5	47.21
CFNYFM	Brampton	ON	271	C1	211.19	164	320.7	47.19
CJRT	Toronto	ON	216	C1	211.21	32	320.5	179.21
CJRT	Toronto	ON	216	C1	211.21	32	320.5	179.21
WAVR	Waverly	NY	271	A	99.70	72	97.8	27.70
WAVR	Waverly	NY	272	A	99.70	31	97.8	68.70
WAVTFM	Pottsville	PA	270	B	196.67	178	139.8	18.67
WBJA	Albion	NY	271	A	130.60	72	342.0	58.60
WBNY	Buffalo	NY	217	A	126.34	10	311.3	116.34
WBRVFM	Boonville	NY	267	A	239.03	31	53.3	208.03
WBUQ	Bloomsburg	PA	216	A	168.70	10	140.8	158.70
WCNYFM	Syracuse	NY	217	B	162.38	15	58.3	147.38
WDKC	Covington	PA	268	A	79.53	31	142.6	48.53
WFLK	Geneva	NY	269	A	94.49	72	37.8	22.49
WGGY	Scranton	PA	267	B	184.35	69	116.8	115.35
WGGY-1	Honesdale	PA	267	D	215.63	0	107.8	215.63
WGGY-A	Hazleton	PA	267	D	199.88	0	132.2	199.88
WGRC	Lewisburg	PA	217	B1	149.84	12	151.8	137.84
WHUG	Jamestown	NY	270	A	143.08	115	270.3	0.08
WHYLFM	Carlisle	PA	272	A	226.47	31	168.2	195.47
WHYLFM	Carlisle	PA	272	A	216.63	31	166.8	185.63
WISY	Canandaigua	NY	272	A	81.49	31	23.3	50.49
WJET	Erie	PA	272	A	195.13	31	265.9	164.13
WJET	Erie	PA	272	A	195.13	31	265.9	164.13
WLOF	Attica	NY	269	A	89.60	72	324.9	17.60
WLOF	Attica	NY	269	A	89.60	72	324.9	17.60
WLTB	Johnson City	NY	269	A	147.41	72	95.0	75.41
WLTB	Owego	NY	269	A	132.42	72	93.7	60.42
WLTB	Owego	NY	269	A	132.42	72	93.7	60.42
WMJQ	Buffalo	NY	273	B	123.56	69	310.4	54.56
WMJQ	Buffalo	NY	273	B	91.07	69	305.3	22.07
WMSS	Middletown	PA	216	A	236.44	10	159.1	226.44
WMXO	Olean	NY	268	A	56.37	31	260.5	25.37
WMXO	Olean	NY	268	A	56.40	31	260.7	25.40
WOLN	Olean	NY	217	A	62.64	10	254.3	52.64
WOWQ	Du Bois	PA	271	B	141.30	113	208.9	28.30
WQLNFM	Erie	PA	217	B	194.86	15	265.9	179.86
WRDS	Phoenix	NY	271	A	155.23	72	48.8	83.23
WRDS	Phoenix	NY	271	A	155.22	72	48.7	83.22
WRMMFM	Rochester	NY	267	B	108.96	69	2.0	39.96
WRMMFM	Rochester	NY	267	B	108.96	69	2.0	39.96
WRTY	Jackson Township	PA	216	B1	232.80	12	122.5	220.80
WSAJFM	Grove City	PA	216	A	230.13	10	241.0	220.13
WSAJFM	Grove City	PA	216	A	227.79	10	240.4	217.79
WSCPFM	Pulaski	NY	269	A	212.48	72	41.4	140.48
WSHG	Pittston	PA	272	A	190.18	31	120.6	159.18
WSKS	Rome	NY	273	B	208.94	69	62.4	139.94
WSQE	Corning	NY	216	B1	70.62	12	97.4	58.62

WZKZ CH270A ALLOC

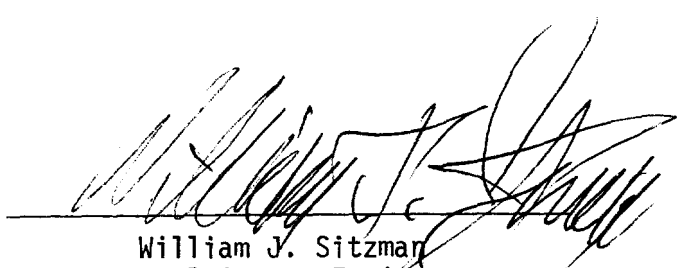
WVCC	Linesville	PA 269 A	233.83	72	256.8	161.83
WXHC	Homer	NY 268 A	136.66	31	65.6	105.66
WZKZ	Alfred	NY 270 A	8.54	115	270.0	-106.46
WZKZ	Alfred	NY 270 A	8.54	115	270.0	-106.46

Figure 28

WZKZ CH270-A AT N 42-11-25 W 77-43-05



March 31, 2001



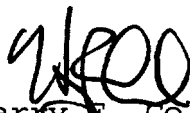
William J. Sitzman
Consulting Engineer

CERTIFICATE OF SERVICE

I, Harry F. Cole, hereby certify that on this 2nd day of April, 2001, I caused copies of the foregoing "Comments in Opposition and Counterproposal of Pembroke Pines Elmira, Ltd." to be placed in the U.S. Postal Service, first class postage prepaid, or hand delivered (as indicated below), addressed to the following persons:

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/s/ Harry F. Cole
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